

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

490. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Non-cognizable—Non-bailable—
Triable by Magistrate of the first class—Non-compoundable.

491. Marrying again during lifetime of husband or wife.—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction,

Nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Compoundable by the husband or wife of the person so marrying with the permission of the court.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 10 years and fine—Non-cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

492. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

493. Marriage ceremony fraudulently gone through without lawful marriage.—Whoever, dishonestly or with fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

494. Adultery.—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall be punishable as an abettor.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years, or fine, or both—Non-cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 5 years, or fine, or both—Cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

495. Enticing or taking away or detaining with criminal intent a married woman.—

Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Compoundable by the person with whom the offender has
contracted.

CHAPTER XXA

OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purpose of this section, –crueltyll means—

- (a) (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine—Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no relative, by any police servant belonging to such class or category as may be notified by the State Government in his behalf—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

COMMENTS

- (i) Mere saying to a person that she is not beautiful is not so provocative that the person is driven to such a step that takes away his life. Conviction of accused on such comment is not sufficiently proved; *Annapuranabai v. State of Madhya Pradesh*, 1999 Cr LJ 2696 (MP).
- (ii) For co-accused in absence of evidence that, they had also caused harassment based on dowry demand, only because they sympathized with main accused does not make them liable to be convicted under section 498-A IPC; *Kondam Gangaram v. State of Andhra Pradesh*, 1999 Cr LJ 2181 (AP).
- (iii) Demand for money after four years of marriage for a specific purpose, nowhere related to marriage demand but causing of harassment to deceased wife so much so that she was bound to end her life is sufficient for conviction under section 498-A IPC; *State of Punjab v. Daljit Singh*, 1999 Cr LJ 2723 (PH).
- (iv) Reduction in sentence on grounds of old age and poor health sentence against section 498-A to be borne by father of husband but due to his poor health and old age the sentence reduced to the period already undergone in custody during proceedings; *State of Karnataka v. Balappa*, 1999 Cr LJ 3064 (Karn).
- (v) In offences under section 498-A when a wife is subjected to mental cruelty it can not be argued that she does not have right to move the court but in other cases of Criminal nature State being custodian of its people is entitled to face the court; *M. Balakrishna Reddy v. Principal Secretary Govt. of Home Department*, 1999 Cr LJ 3566 (AP).
- (vi) Where the prosecution relied only on incident of unhappiness of deceased with her husband and the allegation was only in form of suggestion, therefore, it does not establish criminal offence under either or both of the charges the incidence, hence conviction improper; *State v. K. Sridhar*, 2000 Cr LJ 328 (Kant).